

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BONCHON INTERNATIONAL, INC.,  
BONCHON U.S.A., INC., BONCHON  
FRANCHISE LLC,

Plaintiffs,

v.

NABIEKIM ENTERPRISES, INC, KAYE  
Y. KIM, CALVIN KIM.

Defendants.

Case No. 1:22-cv-00311-JLT-HBK

ORDER GRANTING PARTIES' MOTION  
FOR LEAVE FOR PLAINTIFF TO FILE A  
FIRST AMENDED COMPLAINT

(Doc. No. 11)

Pending before the Court is the parties' joint motion for leave for Plaintiff to file a first amended complaint filed on May 3, 2022. (Doc No. 11). Defendants consent to Plaintiff being permitted leave to file a First Amended Complaint no later than Tuesday, May 17, 2022, pursuant to Federal Rule of Civil Procedure 15(a)(2). (*Id.* at 2).<sup>1</sup> The parties further stipulate that Defendants' deadline to respond to the First Amended Complaint shall be no later than Tuesday, May 31, 2022.

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<sup>1</sup> Defendants' consent does not eliminate Plaintiff's right to file an amended complaint under Fed. R. Civ. P. 15(a)(1). *Ramirez v. Cnty. of San Bernardino*, 806 F.3d 1002, 1008 (9th Cir. 2015) (holding a "[p]laintiff's 15(a)(2) amendment, filed first in time, cannot be construed as a waiver or exhaustion of his automatic right to amend under 15(a)(1), so long as that amendment was timely." *See also T.T. v. Cnty. of San Diego*, No. 319-CV-00407-AJB-AGS, 2020 WL 516146, at \*3 (S.D. Cal. Jan. 31, 2020).

Accordingly, it is **ORDERED**:

1. The parties' stipulated motion for leave for Plaintiff to file a first amended complaint (Doc. No. 11) is GRANTED.

2. Plaintiffs shall file a first amended complaint no later than May 17, 2022.

3. Defendants shall respond to Plaintiffs' first amended complaint no later than May 31, 2022.

Dated: May 10, 2022

  
HELENA M. BARCH-KUCHTA  
UNITED STATES MAGISTRATE JUDGE